

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

ANNA R. SCHWARTZ

Claim No. CU-2738

Decision No. CU
2025

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Darling, Mack, Hall & Call
By Morton Rible, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$2,000.00, was presented by ANNA R. SCHWARTZ and is based upon the asserted ownership and loss of the proceeds of a life insurance policy and membership in the Havana Stock Exchange. Claimant has been a national of the United States since her naturalization on September 25, 1953.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

This claim is based upon claimant's asserted ownership and loss of the proceeds of a life insurance policy in the amount of \$1,000.00 and membership in the Havana Stock Exchange, with an asserted value of \$1,000.00. The record contains a certified copy of an order of final distribution of the Estate of Julius R. Schwartz, Deceased; a certified copy of Certificate No. 45 issued by The Cuban National Company of Insurance on June 15, 1946; a certified copy of receipt issued by the Havana Stock Exchange on July 7, 1945; a copy of a letter from one Dr. Magdalena Chils y Navarrete dated December 28, 1954; a copy of a letter from one Herman Rassp dated April 24, 1959; and claimant's own letters and statements.

Claimant asserts that the life of her husband, Julius R. Schwartz, was insured by the Cuban National Company of Insurance in the amount of \$1,000.00 with claimant as the designated beneficiary; that her husband, Julius R. Schwartz, died on July 14, 1953; and that as a result of unspecified action by the Government of Cuba on April 24, 1959, claimant was not able to collect said insurance. Claimant further asserts that her late husband, Julius R. Schwartz, held membership in the Havana Stock Exchange; that said membership passed to the decedent's Estate and thereafter to claimant; that claimant was deprived of such membership, or the right to dispose thereof, by unspecified action of the Government of Cuba on April 24, 1959; and that said membership had a value of \$1,000.00 on the date of loss.

By Commission letters of August 22, 1967, January 19, 1968, February 26, 1968, and March 12, 1968, claimant was advised, through counsel, as to the type of additional evidence proper for submission to establish this claim under the Act.

Claimant has since communicated with the Commission. However, except as hereinabove mentioned, the suggested evidence has not been submitted.

It would appear that even if the Commission were to find that claimant inherited her husband's membership in the Havana Stock Exchange and that she was the designated beneficiary of the subject life insurance policy and that said policy was in effect on July 14, 1953, the date of the insured's death, no evidence has been submitted to establish a loss arising after January 1, 1959 resulting from nationalization, expropriation, intervention or other taking by the Government of Cuba.

The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interests in property which were nationalized, expropriated or otherwise taken by the Government of Cuba during the statutory period.

Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

26 JUN 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

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